Memorandum

MIAMI-DADE COUNTY

Date: December 5, 2006

Agenda Item No. 12(B)1

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Mitigation Adjustment Policy Review Task Force Report

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This memorandum serves to provide the staff response to the Mitigation Adjustment Policy Review Task Force Report. While the Task Force recommended the cessation of mitigation payments from the Town of Miami Lakes, the Village of Palmetto Bay, and the City of Doral, there is no objective reason for the Board to make a change in the policy adopted by the Board requiring mitigation be paid by municipalities that choose boundaries that are not revenue neutral.

On July 11, 2006, the final report of the Mitigation Adjustment Policy Review Task Force was presented to the Infrastructure and Land Use Committee. The report urges the Board of County Commissioners to implement the following recommendations:

- Mitigation should not result in a net revenue transfer to the unincorporated municipal service area (UMSA). The Task Force concluded that the net effect of the incorporation of the municipalities of Miami Lakes, Palmetto Bay, Doral, Miami Gardens, and Cutler Bay resulted in a net revenue transfer to UMSA, based on the respective Impact to UMSA analyses prepared at the time of incorporation of those five municipalities. Accordingly, the Task Force recommended and concluded that mitigation payments by the municipalities of Miami Lakes, Palmetto Bay and Doral should cease.

- If in the future a new area wishes to incorporate, then the County should determine the impact to UMSA by the incorporation of that area and whether or not there is to be a mitigation payment by the area seeking to incorporate.

- The standard that has been used thus far to establish mitigation must be changed in the future to more appropriately reflect the actual impacts to UMSA and include a methodology with objective indicators. In this regard, the Task Force recommended that the County retain an expert in mitigation (fiscal equalization) issues to conduct a study of best practices related to mitigation in the United States and to make recommendations to the Board.

While I appreciate the diligent efforts of the Task Force, I disagree with some of its recommendations. Relating to its first recommendation, the Task Force bases its conclusion on a presumption that the fiscal effects of multiple incorporations are *cumulative* rather than *independent*. Both County staff and the Board in considering whether or not to recommend the incorporations of Miami Lakes, Palmetto Bay, and Doral and in determining the levels at which to establish mitigation carefully considered each of these proposals individually with the understanding that each incorporation would have an independent, lasting impact on the remaining unincorporated area. Each of these municipal incorporations represents a unique, perpetually foregone opportunity for the maintenance and enhancement of service delivery to UMSA residents.

Also, I can only describe the conclusion of the Task Force that the mitigation payments of Miami Lakes, Palmetto Bay, and Doral now constitute a profit to UMSA as mistaken. In basing its analysis on the "Impact to UMSA" worksheets contained in the Miami Lakes, Palmetto Bay, Doral, Miami Gardens, and Cutler Bay incorporation reports, the Task Force considered this information as representing the actual impact on the UMSA budget of the incorporations in question. These figures instead present a *snapshot in time* (considerably in advance of incorporation) indicating the current *level of effort* for a given area for the purpose of determining whether or not mitigation will be needed. These figures are neither a budget nor a budgetary projection; nor can they represent the actual impact of incorporation on the UMSA budget because this cannot be known until the time at which the municipality is separated from UMSA.

The actual impacts of the incorporation of last five municipalities are known and were presented by staff to the Task Force during its deliberations. This information illustrates actual impacts on the UMSA budget in the first fiscal year following incorporation and demonstrates that, should these incorporations be considered cumulatively, their combined impact on the unincorporated area remains negative.

I am pleased that the Task Force, in its second recommendation, recognizes that negative impacts of incorporation are unacceptable and should be mitigated. Furthermore, I agree with the Task Force that our current approach to mitigation, including the manner in which we determine its necessity and calculate the depth of need, should be studied further to see if any better alternative approaches can be found. As directed at the July 11, 2006 Infrastructure and Land Use Committee meeting, staff is preparing recommendations related to managing the negative impacts of incorporation and annexation; these recommendations will include new and/or refined mitigation-related policy initiatives for the Board's consideration.

With regard to the Task Force's recommendation that the mitigation payments of Miami Lakes, Palmetto Bay, and Doral should cease, I appreciate the urgency with which these municipalities seek its resolution. I also am eager to see the matter put to rest. Should it be determined that the first recommendation of the Task Force be implemented, there are at least two options that may be considered. The Board may wish to consider a multi-year phase-out process to minimize the negative impact to the UMSA budget of approximately $12.5 million for all mitigation payments, including those made as a result of annexations. A three-year phase-out process beginning in either FY 2006-07 or preferably FY 2007-08 would closely parallel the planned phase-out of specialized police services billing. Based on a staff analysis conducted to determine the point at which the combined impact of all post-2000 incorporations might become positive to the County (presuming the acceptability of a combined impact approach and applying reasonable growth assumptions) it was determined that such an effect could occur within the next six to eight years. The suggested three-year phase-out accelerates this timeframe in the interest of identifying a workable compromise. Implementing this policy may require amendment of the pre-agreed conditions of incorporation contained within each affected municipality's charter, pursuant to Section 5.05 of the County Home Rule Charter and Section 20-26A of the County Code, the latter of which states that a municipality "shall request the County's approval of the proposed amended charter language indicating language to be added and deleted and stating the ballot question, prior to calling an election on the question of amending the municipal charter." Both the proposed amended charter language and corresponding ballot question may require approval by a two-thirds vote of the BCC.

Should the Board wish to continue mitigation payments there is a second option that would partially address the mitigation payment concern of the City of Doral, which by far makes the largest such payment. A concern does exist in the minds of some that mitigation policy is not consistent among the three municipalities currently making a payment. The Board may wish to consider adjusting the City of Doral mitigation payments to reflect the same methodology used for Miami Lakes and Palmetto Bay.

Currently, Miami Lakes and Palmetto Bay make mitigation payments based on an original calculation of one mill of property tax revenue for the first year of the municipality's existence, escalated by CPI for each subsequent year. Doral's mitigation payment is based on 1.5 mills for the residential area for the first year, escalated by CPI for each subsequent year. For the City's commercial, industrial and business (CBI) area, the City must pay the equivalent of 1.5 mills each year. If this adjustment were in place, the City's mitigation payment would be reduced by \$3.412 million, from \$8.770 million (\$3.221 million residential and \$5.549 million CBI) to \$5.358 million (1 mill of initial year taxable value adjusted annually by CPI). Just as with the first option, implementation of this policy may require amendment of the municipal Charter. Additionally, implementing an adjustment to Doral's mitigation payments may require amendment of Ordinance 05-73 regarding 100% mitigation for commercial, business or industrial areas. Finally, the Board should consider including mitigation payments made by municipalities as a result of annexations in any mitigation payment phase-out.

It is recommended that the BCC, through the Infrastructure and Land Use Committee, schedule a workshop to discuss in more detail the Task Force's recommendations as well as these mitigation alternatives.

for Assistant County Manager
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